

IN THE UNITED STATES DISTRICT COURT  
FOR SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

KATRINA DANIELLE MATEEN

PLAINTIFF

VS

CIVIL ACTION NO.: 1:23-cv-00306-TBM-RPM

CITY OF GULFPORT, No. 1., is being sued in their official capacity  
As the governing body for the City of Gulfport, Mississippi, located at  
2309 15<sup>th</sup> Street, in Gulfport, Mississippi 39501 for protecting then  
Officer/but now Sergeant Kenneth Nassar who shot and killed Jaheim  
McMillan, on October 6, 2022, at the Family Dollar Store, located at  
1016 Pass Road, in Gulfport, Mississippi 39501

AND

KENNETH NASSAR, No. 2, is being sued in his individual capacity  
As Officer/but now Sergeant and was at all time relevant to these  
Proceedings was employed by the Gulfport Police Department,  
Located at 2220 15<sup>th</sup> Street, in Gulfport, Mississippi, 39501, while  
Working under the color of state law at the time the Defendant shot  
And killed Jaheim McMillan, on October 6, 2022, at the Family Dollar  
Store, located at 1016 Pass Road, in Gulfport, Mississippi 39501

DEFENDANTS

**MOTION TO STRIKE PURPORTED “MOTION TO DENY OFFICER  
KENNETH NASSAR, (SIC) MOTION TO DISMISS PURSUANT  
TO FED.R.CIV.P. 4 AND/OR 12” [DOC. 22]**

COMES NOW Officer Kenneth Nassar, identified as a Defendant in the above cause, by  
and through undersigned counsel and by way of special appearance only, without waiving any  
objection, response, immunity, or defense he may have to the “Complaint” [Doc. 1], be they  
affirmative or otherwise, and files this his “Motion to Strike Purported ‘Motion to Deny Officer  
Kenneth Nassar, (sic) Motion to Dismiss Pursuant to Fed. R. Civ. P. 4 And/Or 12’ [Doc. 22],”  
and as grounds would show as follows, to-wit:<sup>1</sup>

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<sup>1</sup>The instant Motion is pursued without waiving or limiting any defense, objection, right,  
or immunity available to or conferred upon the movant under the Federal Rules of Civil  
Procedure, including, without limitation, Rules 4, 8, 9, 12, 13, 14, 17, and 19, as well as any set

I.

Plaintiff, Katrina Mateen (“Plaintiff”) filed her Complaint with the Circuit Court of Harrison County, Mississippi (“State Court”) on October 4, 2023. The City of Gulfport, Mississippi, another named Defendant, subsequently caused the case to be removed to the instant forum on November 3, 2023.

II.

No attempts to serve process were made on Officer Nassar while the matter was pending in State Court. On February 27, 2023, Plaintiff pursued her first effort to try and have service attempted on Officer Nassar. This lone effort involved Plaintiff having a copy of the Complaint [Doc. 1] delivered to Officer Nassar on February 27, 2023, which was **146 days** after the Complaint was filed.

III.

On March 19, 2024, Officer Nassar filed a “Motion to Dismiss Pursuant to FED. R. CIV. P. 4 and/or 12” [Doc. 20] in this proceeding along with a supporting “Memorandum of Authorities” [Doc. 21]. As this Motion pointed out, Plaintiff’s service effort was untimely and improper. Nonetheless, under the Court’s Uniform Local Rules, Plaintiff was required to file a response to Officer Nassar’s Motion [Doc. 20] within fourteen (14) days thereof. Plaintiff failed to file a timely reply.

IV.

Instead, on April 16, 2024, Plaintiff filed a document with this Court entitled a “Motion do Deny Officer Kenneth Nassar, (sic) Motion to Dismiss Pursuant to Fed. R. Civ. P. 4 And/Or

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forth in or afforded as a result of any local, state, and/or federal statutory or decisional law or constitution, including, without limitation, qualified immunity. The movant also herein adopts and incorporates all arguments, contentions, and authorities asserted in his pending dispositive Motion [Doc. 20] and its supporting Memorandum of Authorities [Doc. 21] as well as those in any rebuttal or memoranda submitted in support thereof or in connection with the instant Motion.

12” [Doc. 22], and which the Plaintiff appears to treat as a response to Officer Nassar’s “Motion” [Doc. 20].<sup>2</sup> Plaintiff’s “response” [Doc. 22] was filed **twenty-eight (28) days** after Officer’s Motion was filed. As a result, Plaintiff’s submission is in violation of the Court’s Uniform Local Rules.

V.

Plaintiff’s “Motion” (response) [Doc. 22] is therefore untimely and not proper. Accordingly, it should be stricken.<sup>3</sup>

WHEREFORE, Officer Kenneth Nassar, specially appearing, who reserves all objections, responses, immunities, and defenses, affirmative or otherwise, that he may have to the “Complaint” [Doc. 1], respectfully requests that this Honorable Court issue an Order fully granting his “Motion to Strike Purported ‘Motion to Deny Officer Kenneth Nassar, (sic) Motion to Dismiss Pursuant to Fed. R. Civ. P. 4 And/Or 12’ [Doc. 22]” and striking Plaintiff’s “Motion” [Doc. 22] (her purported “response” to Officer Nassar’s Motion [Doc. 20]) and granting the movant herein any and all other relief, equitable or otherwise, as this Honorable Court finds appropriate.

RESPECTFULLY SUBMITTED, this the 23<sup>rd</sup> day of April, 2024.

OFFICER KENNETH NASSAR,  
SPECIALLY APPEARING

By: s/ Jeffrey S. Bruni, Esq.  
JEFFREY S. BRUNI, ESQ.  
MS Bar License No. 9573

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<sup>2</sup>Even the Office of the Clerk of this Honorable Court has noted in an annotation in the Court’s docket (on April 16, 2024) that this “Motion” was erroneously entitled as a “Motion” and should be characterized as a “response” (to Officer Nassar’s Motion [Doc. 20]).

<sup>3</sup>Due to the straightforwardness of this Motion, its legal argument is incorporated herein.

**CERTIFICATE OF SERVICE**

I, Jeffrey S. Bruni, Esq., Attorney for the movant herein, do hereby certify that I have on this date electronically filed the above and foregoing document with the Clerk of the Court using the ECF/MEC system, which should send notification of such filing to the Plaintiff, Katrina Mateen, 12060 E. George Street, Gulfport, Mississippi 39503 and to all counsel of record and parties who have made an appearance in this matter.

This the 23<sup>rd</sup> day of April, 2024.

s/ Jeffrey S. Bruni

JEFFREY S. BRUNI

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